

Secretary of Health and Human Resources=
CHILD SUPPORT GUIDELINE REVIEW PANEL
730 East Broad Street B Management Services Unit
Richmond, Virginia 23219



Joseph S. Crane, Chairman
Bill Brownfield, Staff Director

804/692-1401; jsc900@dcse.dss.state.va.us
804/692-2403; whb900@dcse.dss.state.va.us

Minutes
August 1, 2002 Meeting

The meeting of the 2001-2002 Secretary's Child Support Guideline Review Panel was held on August 1, 2002 at 9:00 a.m. in the lower level of the Theater Row Building, Richmond, VA. Mr. Joseph Crane, Chairman, called the meeting to order, welcomed the members and guests, and noted that Mr. Bill Brownfield, Staff Director, would serve the Panel as Secretary.

The following members were present for the meeting: Ms. Amy Atkinson, Ms. Cathy Burch, Ms. Ann Brakke Campfield, Chairman Joseph Crane, Mr. Lawrence Diehl, Mr. Murray Steinberg, Stephanie Sulmer, Delegate Vivian Watts, and Judge Ellen White. Support staff present included Bill Brownfield, Bob Owen and Angela Thomas. Panel members Ms. Cynthia Ewing, Mr. Maxie Cannon, Senator Fred Quayle, and Judge Patricia West did not attend.

The Chair declared a quorum present.

Mr. Crane noted the minutes of the July 1, 2002 meeting of the Panel had been distributed earlier via mail, and asked the Secretary to present them. By common consent, approval of the minutes of the July 1, 2002 meeting were deferred, as legislative language drafted by Mr. Diehl to implement two approved actions at the July 1 meeting were to be considered.

Mr. Owen reported on the status of the work on a new Guideline Schedule by Dr. Rodgers of the College of William and Mary. He noted, as the Panel directed, that the proposed schedule would be totally new and based upon the three recommendations from the JLARC report. Plans are to have Dr. Rodgers and his proposed Schedule at the August 19, 2002 meeting of the Panel. Dr. Rodgers is to be requested to define the makeup of the Schedule, as well as defend the proposal against arguments made that the JLARC recommendations may be invalid.

Judge White moved approval of the proposed language for the *Code of Virginia* § 20-108.2-C, addressing overtime and/or second job income [see Attachment A.] The motion was unanimously approved.

Panel members discussed Mr. Diehl's draft language amending § 20-108.2 (F) related to childcare costs. Following discussion, Ms. Atkinson moved to table the matter. Motion to table was approved.

Following discussion and revision, Delegate Watts moved the approval of the minutes of the July 1, 2002 Panel meeting. The motion was approved unanimously.

The Panel reviewed an informal opinion from Senior Assistant Attorney General Craig Burshem to Chairman Crane regarding the federal “earned income tax credit” [EITC]. Ms. Atkinson moved the EITC be included in the gross income of either or both parties for calculating monthly child support obligations. The motion failed, three ayes, four nays.

Mr. Steinberg moved the Panel determine a way to allocate all tax benefits to the parents in the same proportion as their income shares child support obligation. The motion failed for lack of a second.

By common consent, the draft language related to childcare costs was removed from the table and reconsidered by the Panel. Mr. Diehl moved the approval of redrafted recommended legislative language to § 20-108.2 (F) of the *Code of Virginia*. The motion was approved with two nay votes.

Mr. Steinberg moved the child dependency exemptions and the federal child tax credit be allocated between the parents. By common consent, the motion was tabled pending the expected report from Dr. Rodgers at the August 19, 2002 meeting.

Panel members requested the Chair direct staff to ascertain, to the extent possible before the August 19, 2002 meeting, how other states address the handling of child related tax issues in their child support calculation, and what states may have maximum child support obligations, and if so, what the maximum amounts are.

Following further discussion, the Panel by common consent agreed to table the approved language resulting from Mr. Diehl’s motion re: § 20-108.2(F) until the presentation of Dr. Rodgers at the August 19, 2002 meeting. (See Attachment B.)

Judge White asked the Chairman to ensure the issue of medical costs be considered. Mr. Crane added “medical costs” to Issue “h” to ensure its status as a “placeholder” for future Panel discussion. [See Addendum on “Issues” items.]

By common consent, Issue “h”, “Means of identifying the makeup of the child support, e.g. food, shelter, transportation, etc.,” and § 20-108.2(F) will not be finally addressed until following Dr. Rodgers presentation at the August 19, 2002 meeting. [See Addendum on “Issues”: items.]

Judge White moved the Panel not recommend a maximum dollar “cap” for child support obligations. The motion was approved with one nay vote.

Issue “d”: Mr. Diehl moved the Panel recommend the continuance of the \$65 minimum monthly child support obligation, noting that courts have sufficient deviation factors sufficient to cover extraordinary circumstances. The motion was approved unanimously. [See Addendum on “Issues”: items.]

The Panel, considering its remaining work, agreed to schedule two additional meetings: Thursday, September 26, 2002 and Tuesday, October 8, 2002. Both meetings will begin at 9:00 AM in the Lower Level, Theater Row Building, 730 East Broad Street, Richmond, VA 23219. Members are asked to advise Bill Brownfield if they are unable to attend any meeting.

There being no further business, the Chairman adjourned the meeting at 2:05 PM, thanking all in attendance for their efforts, and reminding them the next meeting is scheduled for Monday, August 19, 2002 at this same location.



Bill Brownfield, Secretary

[**Addendum:** - Issues List from August 1, 2002 Agenda]

2. Review, Prioritization and Approval of Revised Issues List.

- a. **Define child support. What should be included in the award? Need to be stated such that it is uniformly understood;**
- b. **One standard guideline with all deviations used by court and DCSE; deviation factors;**
- c. **Tax consequences in the guideline; Taxes - how to address benefits and consequences; Day care costs/federal child care credits;**
- d. **Minimum order (\$65) for Court-ordered @ child support for unemployed NCP's;**
- e. **Review the three recommendations from the JLARC Report on The Cost of Raising Children; *Will be the basis for newly developed Schedule***
- f. **Maximum percent of income to order – a maximum percentage of income;**
- g. **Base pay versus second job income;**
- h. **Means of identifying the support, e.g. food, shelter, transportation, etc.;**
- i. **Schedule inclusions/parameters of the Schedule; *To be added to statutory language preceding the Schedule.***
- j. **Self Support Reserve: *Will be included with newly developed Schedule***

These minutes were approved, with revisions, at the August 19, 2002 Panel meeting.

ATTACHMENT A

The following recommended language was approved.

Code of Virginia, § 20-108.2 (C) shall be amended as follows:

For purposes of this section, “gross income” means income from all sources, and shall include, but not be limited to, income from salaries, wages, commissions, royalties, bonuses, dividends, severance pay, pensions, interest, trust income, capital gains, social security benefits except as listed below, workers’ compensation benefits, veterans’ benefits, spousal support rental income, gifts, prizes or awards. Gross income shall not include income received by the payor parent from secondary employment income, whether from an additional job, from self-employment, or from overtime income not previously included in “gross income,” where such income has been received in a good faith effort by the payor to discharge a child support arrearage established by a court or administrative order relating to the child or children who are subject to the proceeding and such parent is actually paying the arrearage in accordance with the terms of the order. In such event, such secondary income, or the cessation of such income upon the payment of the arrearage, shall not be the basis for material change in circumstances upon which a modification of child support may be based.

ATTACHMENT B

The following recommendation, initially approved, was tabled for future deliberation.

Section 20-108.2(F) shall be amended as follows:

F. Any child-care costs incurred on behalf of the child or children due to the employment of the custodial parent shall be added to the basic child support obligation as follows:

(1) When the monthly gross income of the custodial parent paying such costs falls below the level indicated below, 100% of the child care costs shall be added to the basic child support obligations.

<i>1 child</i>	<i>= \$1,100</i>	<i>4 children=\$1,900</i>
<i>2 children</i>	<i>= \$1,500</i>	<i>5 children=\$2,100</i>
<i>3 children</i>	<i>= \$1,700</i>	<i>6 children=\$2,300</i>

(2) When the monthly gross income of the custodial parent paying such costs exceeds the level set forth in subsection (F)(1) above, 75% of the child care costs shall be added to the basic child support obligation. The sum of 100% of the child-care costs exceeding said maximum sum shall be added to the basic child support obligation. The Court or administrative agency shall consider tax returns or any other relevant evidence presented in order to rebut the presumption of the percentage of childcare costs to be used.

(3) Child-care costs shall not exceed the amount required to provide quality care from a licensed source. When requested by the noncustodial parent, the court may require the custodial parent to present documentation to verify the costs incurred for child care under this subsection. Where appropriate, the court shall consider the willingness and availability of the noncustodial parent to provide child care personally in determining whether child-care costs are necessary or excessive.